



**Office of the Attorney General
Robert E. Cooper, Jr.**

**Department of Commerce and Insurance
Commissioner Leslie Shechter Newman**

NEWS RELEASE

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**ATTORNEY GENERAL FILES JUDGMENT
AGAINST MERCK PHARMACEUTICAL COMPANY RESOLVING MULTISTATE
INVESTIGATION**

Tennessee and 30 other states will share \$58 million in a record-breaking settlement with the makers of popular painkiller Vioxx, Attorney General Bob Cooper and Mary Clement, director of the Tennessee Division of Consumer Affairs, announced today.

The State has filed a judgment with Merck & Co., Inc. resolving a three-year, multistate investigation into the company's allegedly deceptive promotion of Vioxx. Tennessee's share is more than \$1.6 million. In addition, the judgment filed in the Davidson County Circuit Court will largely restrict Merck's ability to deceptively promote any Merck product.

"I am pleased to announce this settlement which, to our knowledge, is the largest money settlement any multistate group has ever received in a consumer protection act pharmaceutical case," Attorney General Cooper said. "This settlement should encourage higher standards within the entire pharmaceutical industry for advertising medications to consumers."

Today's judgment requires Merck to submit all television drug advertisements to the Food and Drug Administration (FDA) for approval. Merck must also comply with any recommendation by the FDA to delay advertising for new Merck pain relieving drugs. The state Attorneys General

expressed concerns regarding the negative effect of advertising that commences immediately with the release of a new drug before doctors have a chance to gain experience with the drug and understand its potential side effects.

“Merck’s aggressive early direct consumer promotions of Vioxx drove hundreds of thousands of consumers to seek prescriptions before Vioxx’s risks were fully understood,” Director Clement added. “Today’s action ensures the FDA will have input before Merck can run advertisements.”

Other practices that are either prohibited or curtailed as a result of the lawsuit include:

- *Deceptive use of scientific data when marketing to doctors;
- *Ghost writing of articles and studies;
- *Failing to adequately disclose any conflict of interest Merck promotional speakers may have when these speakers present supposedly “independent” Continuing Medical Education; and
- *Conflicts of interest in Merck-sponsored Data Safety Monitoring Boards.

The State’s lawsuit and the judgment may be viewed by going online to www.tn.gov/attorneygeneral/. If consumers have complaints regarding prescription drug advertisements or any other deceptive conduct, they may go online to <http://www.state.tn.us/consumer/> or call the Division of Consumer Affairs at (615) 741-4737 or toll-free in Tennessee at 1-800 342-8385.